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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,918	05/26/2000	Philip C M Leung	1126.001US1	8219

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3628

MAIL DATE	DELIVERY MODE
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03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/579,918	Applicant(s) LEUNG, PHILIP C M	
	Examiner AKIBA K. ROBINSON BOYCE	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-22 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-22, and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/24/08 has been entered.

Status of Claims

2. Due to communications filed 1/24/08, the following is a non-final office action. Claims 1, 9, 12, 14, 16, 25, 26, 28 are amended. Claims 11, 23 and 24 are cancelled. Claims 1-10, 12-22, and 25-28 are pending in this application and have been examined on the merits. Claims 1-10, 12-22, and 25-28 are rejected as follows.

Claim Rejections - 35 USC §103

3. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-10, 12-22, and 25-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Keillor et. al. (U.S. 5,917,433)("Keillor") in view of Klanke (U.S. 6,313,791) and Paradox for Window's User's Guide. In this rejection, Paradox for Windows User's guide is simply to show an exemplary relational database systems as disclosed in Keillor.

As per claim 1, Keillor discloses a computer system having a trailer tracking program which receives information regarding the trailer and stores the information in a record, (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, col. 7, lines 44-54, shows that central station stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer);

...wherein each railway terminal includes means for receiving a train having a plurality of rail cars and means for receiving trailers to be loaded on rail cars, (Col. 5, lines 21-38, shows rail cars for a railroad can be implemented with the invention, w/Col. 1, lines 45-49, shows an example where the driver must park the tractor and telephone the central station or dispatcher in order to report the present location of the tractor-trailer and obtain updated delivery information, in this case, have a plurality of terminals for each tractor to be able to pull over and make a call, as there are in truck stops is suggested. In addition, it is taught that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by

way of distinct communication links with the central station, w/Col. 1, lines 16-20, shows that it is common for freight to be loaded into rail cars and shipped in the container industry), and wherein each railway terminal includes a railway terminal management system communicatively connected to the computer system, wherein the railway terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status, (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system, w/ col. 10, line 65-Col. 11, line 10, asset monitor transmits update to central processor about sensed data, where col. 7, lines 44-54, shows that central station stores data relating to sensory signals).

Keillor et does not necessarily disclose a plurality of railway terminals, but does disclose that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station, where rail cars for a railroad can be implemented with the invention as shown in Col. 5, lines 21-38.

However, Klanke discloses:

A plurality of...terminals, (Col. 7, lines 36-45, shows that a route goes through multiple stops, which allows storage of route information, in this case the stops

represent the terminals). Klanke discloses this limitation in an analogous art for the purpose of showing that during the stops along the route, information about the transport is stored.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a plurality of terminals with the motivation of having means to input and store information.

As per claim 3, Keillor et al discloses:

Wherein the computer system includes a reservation system or reserving a slot on a train...(Col. 1, lines 16-20, shows that it is common for freight to be loaded into rail cars and shipped in the container industry).

As per claim 4, Keillor et al discloses:

Wherein the terminal management system includes a trailer tracking system...(col. 7, lines 44-54, shows that central station stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer).

As per claim 5, Keillor et al discloses:

Wherein the trailer tracking system includes a terminal interface...(shown that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station).

As per claims 6-8, 18-22, 27, Keillor et al discloses:

Wherein the computer system includes a network.../Wherein the trailer tracking system comprises a portable computer.../wherein the terminal management system includes a trailer tracking device, wherein the trailer tracking device is a handheld computer.../wherein the access restriction system comprises a hand held computer.../wherein the computer system includes a web server...connected through a firewall...(Col. 8, lines 19-38, chain of communication links, w/ Col. 9, lines 15-19, cellular communications technology, representing wireless technology, which includes portable wireless computers).

As per claims 9/14/15, Keillor does not specifically disclose the following, however discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services.

However, Klanke discloses:

Wherein the terminal management system includes an access restriction system which restrict access to physical locations within the railway terminal/ wherein the access restriction system comprises an access controller..., (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Klanke to include Klanke's access restriction system.

As per claims 12, 16, 25, 26, Keillor et al discloses:

A network/a network interface..., (Col. 8, lines 19-38, chain of communication links);

A computer system..., (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, col. 7, lines 44-54, shows that central station stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer);

A first terminal management system associated with the first railway terminal.../A second terminal management system associated with the second railway terminal.../a first access restriction system.../a second access restriction system.../a terminal management computer.../ an access restriction system which restricts access to physical locations within the railway terminal, (it is taught that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station, w/Col. 5, lines 21-38, shows rail cars for a railroad can be implemented with the invention)

Wherein trailers enter and exit each railway terminal...(Col. 1, lines 45-49, shows an example where the driver must park the tractor and telephone the central station or dispatcher in order to report the present location of the tractor-trailer and obtain updated

delivery information, in this case, it is inherent to have a plurality of terminals for each tractor to be able to pull over and make a call, as there are in truck stops);

Wherein each terminal management system tracks arrivals and departures of the trailers from each railway terminal...(col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system, w/ col. 10, line 65-Col. 11, line 10, asset monitor transmits update to central processor about sensed data, where col. 7, lines 44-54, shows that central station stores data relating to sensory signals).

means for transferring information/means for receiving information...from the railway terminals(col. 4, lines 23-32, receiver, transmit);

The following is not disclosed by Keillor, however Keillor discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services.

However, Klanke discloses:

First and second access restriction systems/am access restriction system are inherent with Keillor since Keillor discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services, (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Klanke to include Klanke's access restriction system.

Keillor et does not necessarily disclose a plurality of railway terminals, but does disclose that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station.

However, Klanke discloses:

A plurality of railway terminals, (Col. 7, lines 36-45, shows that a route goes through multiple stops, which allows storage of route information, in this case the stops represent the terminals). Klanke discloses this limitation in an analogous art for the purpose of showing that during the stops along the route, information about the transport is stored.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a plurality of terminals with the motivation of having means to input and store information.

As per claims 13, 17, Keillor et al discloses:

Wherein the network comprises a token ring network, (Col. 8, lines 19-38, chain of communication links);

As per claims 10, 28, Keillor et does not necessarily disclose a gate restriction...to restrict access to its respective railway terminal, but does disclose a wireless communication in col. 9, lines 15-19, where it is inherent to have access restriction since access restriction is standard in wireless networks so that entities not included in the network can not have access to services.

However, Klanke disclose the gate restriction...to restrict access to its respective railway terminal, (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Klanke to include Klanke's access restriction system.

5. Claim 2 is alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Keillor et. al. (U.S. 5,917,433), and further in view of Klanke (US 6,314,791), and further in view of Nijenhuis (PCT/NL98/00128).

As per claim 2, Keillor et al does not specifically disclose the following, but does disclose a system for monitoring and tracking assets such as containers, trailers, etc. as shown in Col. 2, lines 60-65.

However, Nijenhuis discloses:

Wherein each terminal includes a track and loading pad..., (terminal (1) with a loading pad (Figure 1)). Nijenhuis discloses this limitation in an analogous art for the

purpose of showing a that loading pads are commonly used in the container transport/monitoring art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Nijenhuis to include a terminal with a loading pad. Such a modification would have provided a system where the transfer time of trailers to rails was reduced.

Finally, examiner concludes that Applicant has decided not to be his own lexicographer by indicating and defining claim limitations to have meanings other than their ordinary and accustomed meanings. To support this position, the Examiner relies on the following factual findings. First and as noted in the previous Office Action, the Examiner has carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, and in spite of Applicant's statement in his Remarks, the Examiner finds that not only has Applicant not pointed to definitional statements in his specification or prosecution history, Applicant has also not pointed to a term or terms in a claim with which to draw in those statements. Third and also as noted in the previous Office Action (and except for his discussion of claim 5), Applicant has not attempted to 'clearly set forth' or 'clearly redefine' a particular claim term. *Bell Atlantic Network Services Inc. v. Covad Communications Group Inc.*, 262 F.3d 1258, 1268, 59 USPQ2d 1865, 1870 (Fed. Cir. 2001). Finally, Applicant's attempt at lexicography (including his discussion of claim 5) fails to define his terms with reasonable clarity, deliberateness, and precision. See e.g. *Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc.*, 67 USPQ2d 1865, 1872 (Fed Cir. 2003) ("Contrary to

the district court's claim construction, the written description does not describe 'with reasonable clarity, deliberateness, See the Examiner's previous Office Action mailed September 10, 2003, Paper No. 8, Paragraph No. 14. See Applicant's Remarks, Paper No. 10, Page 9, ¶2, "Applicant asserts that he had every intention of being his own lexicographer when drafting the specification and initial set of claims." "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, at the very least, point to a term or terms in the claim with which to draw in those statements. [Emphasis added.]" Johnson Worldwide Assocs. v. Zebco Corp., 175 F.3d 985,989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999) and precision," citing In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1874 (Fed. Cir. 1994).

Accordingly and for due process purposes, the Examiner gives notice that for the remainder of the examination process (and unless expressly noted otherwise by the Examiner), the heavy presumption in favor of the ordinary and accustomed meaning is not overcome; the claims therefore continue to be interpreted with their "broadest reasonable interpretation" In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).⁵ The Examiner now relies heavily and extensively on this interpretation.⁶ Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending. See also In re Thrift, 298, F.3d 1357, 1364, 63, USPQ2d 2002, 2006 (Fed. Cir. 2002) ("Although an applicant may be his own lexicographer, nothing in the specification

defines the phrase 'speech user agent' differently from its ordinary meaning.") (citations omitted); *Abbott Labs. v. Baxter Pharm. Prods.*, 67 USPQ2d 1191, 1194 (Fed. Cir. 2003)("Because the patentee did not deviate from the accustomed meaning of the disputed claim term, the term 'effective amount' is construed in view of its ordinary and customary meaning."); *Northern Telecom Ltd. v. Samsung Elecs. Co.*, 215 F.3d 1281, 1295, 55 USPQ2d 1065, 1075 (Fed. Cir. 2000) ("Vagueness and inference cannot overcome an ordinary meaning of a claim term "); See also *In re Bass*, 314 F.3d 575,577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) ("In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification") (citations omitted); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc); and MPEP §§ 2111 and 2111.01.

6 See 37 C.F.R. §1.104(c)(3) which states in part: "the examiner may rely upon admissions by applicant., as to any matter affecting patentability
[Emphasis added.]"

Response to Arguments

6. Applicant's arguments, see remarks, filed 1/24/08, with respect to claims 16-22, 25-28 have been fully considered and are persuasive. The 35 USC 112 rejection of claims 16-22 and 25-28 has been withdrawn.

7. Applicant's arguments filed 1/24/08 have been fully considered but they are not persuasive.

As for the 103 rejection of claims 1-10, 12-22 and 25-28, applicant argues that there is no railway terminal management in prior art used. However, as included in the rejection, Col. 5, lines 21-38 of Keillor shows that rail cars for a railroad can be implemented with the invention access restriction system, so therefore the terminal management system shown in Keillor can be implemented with railway systems.

Applicant also argues that the Examiner states that each trailer in Keillor is a terminal, and in effect, the Examiner has read the terminal limitation out of the claim, and in addition, the Examiner finds that Klanke discloses a plurality of stops and that each stop is equivalent to a terminal, which, according to applicant is logically inconsistent with his finding that each trailer is its own terminal and undercuts his assertion of the motivation to combine the references. However, KSR forecloses applicant's argument that a specific teaching is required for a finding of obviousness. *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396. These claims recited combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under *KSR*.

For the reasons stated above, all independent claims and each claims that depends from them are still rejected.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.
March 18, 2008

/Akiba K Robinson-Boyce/

Primary Examiner, Art Unit 3628